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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/204, 523	12/03/98	FRANSMAN	A 97-823

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EXAMINER	
BROWN, R	
ART UNIT	PAPER NUMBER
2711	6
DATE MAILED: 10/03/00	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

<b>Office Action Summary</b>	Application No. <b>09/204,523</b>	Applicant(s) <b>Fransman, et al</b>
	Examiner <b>Reuben M. Brown</b>	Group Art Unit <b>2711</b>

Responsive to communication(s) filed on \_\_\_\_\_.

This action is FINAL.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

#### Disposition of Claims

Claim(s) 1-27 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

Claim(s) \_\_\_\_\_ is/are allowed.

Claim(s) 1-27 is/are rejected.

Claim(s) \_\_\_\_\_ is/are objected to.

Claims \_\_\_\_\_ are subject to restriction or election requirement.

#### Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. § 119

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All  Some\*  None of the CERTIFIED copies of the priority documents have been

received.

received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

#### Attachment(s)

Notice of References Cited, PTO-892

Information Disclosure Statement(s), PTO-1449, Paper No(s). 3

Interview Summary, PTO-413

Notice of Draftsperson's Patent Drawing Review, PTO-948

Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

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***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Clark, (U.S. Pat # 5,383,112).

Considering claim 1, the claimed master scheduler arranged to control a near video on demand system comprising a schedule management system arranged to receive and validate a schedule reads on the operation of master scheduler 20, and serving computer 15, (col. 2, lines 55-67; col. 3, lines 1-11). Both master scheduler 20 and serving computer 15 may be implemented as personal computers and are enabled to receive & validate a NVOD programming schedule, (col. 4, lines 29-38; col. 8, lines 51-68). Specifically, the claimed feature of receiving and validating a schedule is broad enough to read on an operator using the Schedule Manager Segment 700 in order to create a schedule, and wherein the instant schedule is validated by being accepted and put into operation by the computer, as taught by Clark (col. 13, lines 49-68; col. 15,

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lines 17-32). Moreover the system in Clark ‘validates’ the schedule by checking it against certain required parameters and providing the operator with various messages when the instant created schedule is not in a valid form to be adopted, see col. 14, lines 10-24.

The claimed content manager system arranged to monitor and control the loading of assets into a video server according to the validated schedule, wherein the assets include video content scheduled for staggered transmission to subscribers of the NVOD system using a plurality of channels is met by Clark (col. 4, lines 25-40; col. 5, lines 17-23).

Considering claim 2, Clark teaches that an operator utilizes the Schedule Manager software on one or more computers 15, 20, 64 or 66 in order to create monthly, weekly or daily schedules. The menu system utilized by the operator reads on the GUI based administrator recited in the instant claim.

Considering claim 3, Fig. 1 of Clark shows the Master Scheduler 20, as a separate entity from the video server 11. Also, Clark teaches that at least the weekly schedule may be edited and modified, see col. 13, lines 10-65.

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***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 4-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clark, in view of Gardner, (U.S. Pat # 5,583,995).

Considering claims 4-7, Clark discusses an operator manually checking and updating the video storage/retrieval devices at a server, (col. 27, lines 1-25). Even though Clark does not specifically discuss bandwidth and channel optimization algorithms, at the time the invention was made such technology was well known in the art. In particular, Gardner provides a standard teaching of system which tracks configuration parameters of a headend and accordingly, makes dynamic adjustments and reallocations of servers assets, (col. 1, lines 58-65; col. 4, lines 14-58; col. 11, lines 61-68; col. 13, lines 42-55). It would have been obvious for one of ordinary skill in the art at the time the invention was made to modify Clark, with a server reconfiguration

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algorithm, for the desirable benefit of a more efficient video delivery system, as taught by Gardner.

5. Claims 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clark & Gardner, in view of Nouri, (U.S. Pat # 6,088,816).

Regarding claims 8-9, the master scheduler 20 of Clark provides a GUI for an operator to edit and modify a programming transmission schedule and Gardner discusses monitoring the status of assets at a server, but does not specifically show a GUI in order to view the status of assets. Nevertheless, Nouri discloses a means for an operator to view the status or condition of various assets at a server. It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify the combination of Clark & Gardner, with the disclosure of Nouri, providing operators with a visual/graphical display of the status of various components of the server, at least for the desirable improvement of enabling the operator to more readily and efficiently adjust parameters of the system.

6. Claims 10 & 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clark, in view of Davis, (U.S. Pat # 5,576,755).

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Considering claim 10, the claimed elements of a near video on demand system, which corresponds with subject matter mentioned above in the rejection of claims 1-2, are likewise rejected. However, Clark does not teach receiving an EPG and a schedule from a schedule provider. Nevertheless, Davis provides a teaching wherein an EPG which contains transmissions schedules at least for NVOD programming is provided from a central location to a plurality of CATV headends, (col. 7, lines 25-30; col. 29, lines 1-21). It would have been obvious for one of ordinary skill in the art at time the invention was made, to modify Clark by enabling the master scheduler at the headend/server to receive a schedule from a remote schedule provider, at least for the known desirable advantage of promoting a more unified system wherein the same programming schedule may be efficiently supplied to a plurality of headends, as taught by Davis.

Considering claim 17, the claimed method for controlling a near video on demand system comprises steps which corresponds with subject matter mentioned above in the rejection of claim 10, and is likewise rejected.

Considering claim 18, Clark teaches maintaining an inventory of storage/retrieval devices, (col. 16, lines 49-68).

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7. Claims 11-14 & 21-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clark & Davis, in view of Gardner.

Considering claims 11-14, Clark discusses an operator manually checking and updating the video storage/retrieval devices at a server, (col. 27, lines 1-25). Even though Clark does not specifically discuss bandwidth and channel optimization algorithms, at the time the invention was made such technology was well known in the art. In particular, Gardner provides a standard teaching of system which tracks configuration parameters of a headend and accordingly, makes dynamic adjustments and reallocations of servers assets, (col. 1, lines 58-65; col. 4, lines 14-58; col. 11, lines 61-68; col. 13, lines 42-55). It would have been obvious for one of ordinary skill in the art at the time the invention was made to modify Clark, with a server reconfiguration algorithm, for the desirable benefit of a more efficient video delivery system, as taught by Gardner.

Considering claim 21, the method steps for validation of scheduling information which corresponds with subject matter mentioned above in the rejection of claims 10 & 17, are likewise rejected. The claimed step of receiving an asset from an asset provider is broad enough to read on one or more video storage/retrieval means being added to a video server, which is necessarily included in Clark. Even though Clark does not specifically discuss bandwidth and channel optimization algorithms, at the time the invention was made such technology was well known in

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the art. In particular, Gardner provides a standard teaching of system which tracks configuration parameters of a headend and accordingly, makes dynamic adjustments and reallocations of servers assets, (col. 1, lines 58-65; col. 4, lines 14-58; col. 11, lines 61-68; col. 13, lines 42-55). It would have been obvious for one of ordinary skill in the art at the time the invention was made to modify Clark, with a server reconfiguration algorithm, for the desirable benefit of a more efficient video delivery system, as taught by Gardner.

Regarding claim 22-23, Gardner extensively discusses the monitoring of asset and resource performance, with respect to established maximum expected performance of the instant assets, (col. 6, lines 41-55; col. 12, lines 49-55).

Considering claim 24, Official Notice is taken that at the time the invention was made, it was well known to limit the viewing or playing of video on demand services to subscribers based on several parameters, including the timeliness of the data. It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify the combination of Clark, Davis & Gardner, inhibiting the transmission/reception of video programming based on the timeliness of the instant video program, at least for the desirable advantage of a more efficient system which only offers programming to viewers which is currently available.

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Considering claim 25, the combination of Clark (col. 14, lines 1-25) & Davis (col. 29, lines 1-25) reads on the claimed feature of receiving a program guide information and comparing it to scheduling information.

Considering claim 26, Clark teaches editing and modifying a video scheduling information, (col. 13, lines 31-62).

Considering claim 27, Clark receives, maintains and updates billing/pricing information, (col. 4, lines 34-37; col. 8, lines 35-45).

8. Claims 15-16 & 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clark, Davis & Gardner and further in view of Nouri.

Regarding claims 15-16 & 19-20, the master scheduler 20 of Clark provides a GUI for an operator to edit and modify a programming transmission schedule and Gardner discusses monitoring the status of assets at a server, but does not specifically show a GUI in order to view the status of assets. Nevertheless, Nouri discloses a means for an operator to view the status or condition of various assets at a server. It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify the combination of Clark, Davis & Gardner, with the disclosure of Nouri, providing operators with a visual/graphical display of the status of

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various components of the server, at least for the desirable improvement of enabling the operator to more readily and efficiently adjust parameters of the system.

***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- A) Thomas Discusses Video on Demand system which operates according to a provided EPG.
- B) Monteiro Detects failures and provides load balancing for audio/video servers.
- C) Schiller Transmits movie channel broadcast schedules from a remote location to headend servers.
- D) Esch Transmis schdeuling broadcast information from a remote location to headend servers.

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**Any response to this action should be mailed to:**

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**or faxed to:**

(703) 308-6306 or -6296, (for formal communications; please mark  
"EXPEDITED PROCEDURE", for informal or draft communications,  
please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal  
Drive, Arlington, VA., Sixth Floor (Receptionist).

Any inquiry concerning this communication or earlier communications from the examiner  
should be directed to Reuben Brown whose telephone number is (703) 305-2399. The examiner  
can normally be reached on M-Th from 8:30 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor,  
Andrew Faile, can be reached on (703) 305-4380.

Any inquiry of a general nature or relating to the status of this application or proceeding  
should be directed to the Group receptionist whose telephone number is (703) 305-4700.

  
ANDREW I. FAILE  
SUPERVISORY PATENT EXAMINER  
GROUP 2700